

**T.B., Appellant**

**U.S. POSTAL SERVICE, POST OFFICE**  
**Beachwood, OH, Employer**

### Case Submitted on the Record

<sup>2</sup> The record provided to the Board includes evidence received after OWCP issued its January 18, 2019 decision. However, the Board's *Rules of Procedure* provides: The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

### **FACTUAL HISTORY**

On October 23, 2018 appellant, then a 30-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she incurred pain and swelling in her left ankle due to factors of her federal employment including walking several hours a day. She indicated that she first became aware of her condition and realized it was caused or aggravated by her federal employment on October 23, 2018. Appellant stopped work the same day.

In an October 23, 2018 statement, appellant explained that she started feeling a sharp pain in her heel on October 20, 2018. She mentioned the pain to her closing supervisor, but did not report her condition because she thought the pain would go away after soaking her foot. Appellant explained that she returned to work on October 22, 2018, and after completing her route, her heel and the back of her foot were swollen. The following day, she reported her condition to her supervisor as she was unable to complete her delivery route due to pain.

On October 23, 2018 Dr. Nikolas Sekoulopoulos, a resident physician, partially completed a physician's report of work ability where he diagnosed left Achilles tendinitis and indicated by checking a box marked "no" that she was unable to return to her full work duties. He noted that she would be capable of returning to full-time work on October 25, 2018.

In a duty status report (Form CA-17) of even date, Dr. Sekoulopoulos indicated that appellant was injured on October 20, 2018 and again diagnosed left Achilles tendinitis. He opined that she would be capable of resuming her regular work duties on October 25, 2018.

OWCP received a State of Ohio Workers' Compensation injury report dated November 4, 2018 in which appellant reiterated the details of her employment injury. Appellant indicated that while delivering mail on October 20, 2018 she began experiencing pain in her left heel and noticed her heel was swollen once she arrived home. She returned to work on October 23, 2018, reported the injury and sought medical attention.

On November 5, 2018 appellant was seen by Dr. Daniel Breitenbach, Board-certified in internal medicine. In a narrative report and an attending physician's report (Form CA-20), Dr. Breitenbach noted that she was previously seen in the emergency department and had x-rays and an ultrasound performed on October 23, 2018. He reported that on presentation appellant walked with a limp and had tenderness over the left Achilles tendon on physical examination. Dr. Breitenbach completed a duty status report (Form CA-17) and opined that she was capable of performing sitting work only and referred her to physical therapy.

In a development letter dated November 8, 2018, OWCP notified appellant of the deficiencies of her claim. It advised her of the factual and medical evidence necessary to establish her claim and also provided a questionnaire for completion. OWCP afforded appellant 30 days to submit the necessary factual evidence and medical evidence.

Appellant submitted the October 23, 2018 emergency room report from Dr. Sekoulopoulos, now cosigned by Dr. Cristina Carpintero-Ramirez, an attending Board-certified emergency medicine physician, noting that appellant presented with left heel pain likely caused by Achilles tendinitis. An x-ray of appellant's left foot, performed on that same date and interpreted by Dr. Joseph Schoenberger, a Board-certified radiologist, revealed minimal enthesopathy at the calcaneal Achilles insertion and confirmed that there were no acute findings.

In a November 12, 2018 medical report, Dr. Breitenbach noted that appellant reported her pain as occurring “every now and then depending on activity.”

On November 13, 2018 appellant returned to Dr. Breitenbach to have her work restrictions reviewed and updated. In an attached duty status report (Form CA-17) of even date, Dr. Breitenbach again diagnosed left Achilles heel tendinitis and provided additional work restrictions, including driving only to and from work and carrying mail no more than two hours per day.

In a November 14, 2018 response to OWCP’s questionnaire, appellant explained that 24 to 48 hours prior to the development of her claimed condition, her only activity included walking at the employing establishment. She further noted that her condition had improved and that she was able to tolerate carrying two hours of her delivery route.

In duty status reports (Form CA-17) and medical notes dated November 26, 2018 through January 10, 2019, Dr. Breitenbach made note of appellant’s ongoing complaints of pain over her left Achilles tendon and continued to provide work restrictions. His medical notes indicated that appellant experienced discomfort when pressure was added to her foot or if she stood or walked for extended periods of time. Dr. Breitenbach continued to provide work restrictions of carrying mail for no more than two hours per day.

By decision dated January 18, 2019, OWCP denied appellant’s claim finding that the evidence submitted was insufficient to meet her burden of proof to establish a left Achilles tendinitis condition causally related to the accepted factors of her federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>4</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *S.C.*, *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *S.C.*, *supra* note 4; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>7</sup>

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup>

### **ANALYSIS**

The Board finds that appellant has not met her burden of proof to establish a left Achilles condition causally related to the accepted factors of her federal employment.

Dr. Breitenbach submitted multiple reports diagnosing left Achilles tendinitis and providing work restrictions, but offered no opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>11</sup> A medical opinion must provide an explanation as to how the specific employment factors physiologically caused or aggravated the diagnosed conditions.<sup>12</sup> Accordingly, Dr. Breitenbach's reports and notes are of no probative value on the issue of causal relationship.

Similarly, in an October 23, 2018 emergency room report, Dr. Sekoulopoulos diagnosed left Achilles tendinitis and noted that appellant's x-ray results revealed no acute findings. However, he did not offer an opinion on causal relationship.<sup>13</sup> Accordingly, the Board finds that Dr. Sekoulopoulos' report is also insufficient to establish appellant's claim.

Finally, appellant submitted an October 23, 2018 diagnostic imaging study in the form of an x-ray in support of her claim. The Board has held, however, that diagnostic studies are of limited probative value as they do not address whether the employment activities caused the

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<sup>7</sup> *C.D.*, Docket No. 17-2011 (issued November 6, 2018); *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>8</sup> *A.M.*, Docket No. 18-0685 (issued October 26, 2018).

<sup>9</sup> *E.V.*, Docket No. 18-0106 (issued April 5, 2018).

<sup>10</sup> *B.J.*, Docket No. 19-0417 (issued July 11, 2019).

<sup>11</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *See V.T.*, Docket No. 18-0881 (issued November 19, 2018).

<sup>13</sup> *Supra* note 11.

diagnosed condition.<sup>14</sup> Therefore, the Board finds that this report is also insufficient to establish appellant's claim.

As there is no rationalized medical evidence of record explaining how the accepted factors of appellant's employment caused or aggravated her left Achilles tendinitis, appellant has not met her burden of proof to establish her claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a left Achilles tendinitis condition causally related to the accepted factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the January 18, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 12, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>14</sup> See *E.V.*, Docket No. 18-1617 (issued February 26, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).